



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 14, 1998

Mr. J. Steven Houston
Brewster County Attorney
P.O. Box 323
Alpine, Texas 79831

OR98-2418

Dear Mr. Houston:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118739.

The Brewster County Sheriff received a request for a copy of the mug shot of an arrestee. You contend that the mug shot is excepted from disclosure under section 552.108(b) of the Government Code.

Section 552.108(b) excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if: (1) release of the internal record or notation would interfere with law enforcement or prosecution; [or] (2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication." You state that the case involving the arrestee is still under investigation. Based upon this representation, we conclude that the release of the mug shot would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, you may withhold the mug shot from disclosure under section 552.108(b)(1).¹

¹Subsections (a)(2) and (b)(2) of section 552.108 protect law enforcement records relating to investigations that did not result in conviction or deferred adjudication. For your future reference, we note that in order to show the applicability of these subsections, a governmental body must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 118739

Enclosures: Submitted documents

cc: Mr. Burnis Lawrence
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(w/o enclosures)